
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff

v.

MY DOCTOR SUGGESTS, LLC dba MY
HEALTH SUPPLIER; GP SILVER, LLC;
and GORDON PEDERSEN,

Defendants.

**CONSENT ORDER AND FINAL
JUDGMENT AS TO MY DOCTOR
SUGGESTS, LLC**

Case No. 2:20-cv-279-DBB

District Judge David Barlow

Plaintiff, the United States of America (“United States”) commenced this action against MY DOCTOR SUGGESTS LLC and other named defendants by filing a civil complaint for an ex parte temporary restraining order, preliminary and permanent injunctions, and other equitable relief under the Anti-Fraud Injunction Statute, 18 U.S.C. § 1345.¹ The United States and MY DOCTOR SUGGESTS LLC now agree to the entry of this Stipulated Consent Order and Final Judgment (“Consent Order”) to resolve all matters in dispute in this action between them. The remaining Defendants, Gordon Pedersen and GP Silver LLC, are not parties to the agreement and are not subject to this Consent Order. The parties having consented to entry of the Consent Order and Judgment, the court orders as follows.

I. FINDINGS

A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1345.

¹ ECF No. 1.

B. The United States' Complaint alleges violations of the Anti-Fraud Injunction Statute, 18 U.S.C. § 1345.

C. On April 28, 2020, this court issued an ex parte Temporary Restraining Order and Order to Show Cause upon finding (1) there was probable cause to believe that MY DOCTOR SUGGESTS LLC was violating and was about to violate 18 U.S.C. §§ 1341 and 1343 and (2) that the statutory conditions for granting injunctive relief under 18 U.S.C. § 1345 had therefore been met.²

D. MY DOCTOR SUGGESTS LLC subsequently consented to extend the TRO against it, and on May 22, 2020, the court extended the TRO against MY DOCTOR SUGGESTS LLC pending the Court's ruling on the United States' application for a preliminary injunction.³ A hearing was set for July 8, 2020.⁴

E. The United States and MY DOCTOR SUGGESTS LLC wish to settle this action upon the following terms without further litigation, as to MY DOCTOR SUGGESTS LLC and MY DOCTOR SUGGESTS LLC agrees that this court may enter and enforce this Consent Decree and Final Judgment against it.

II. PROHIBITED CONDUCT

MY DOCTOR SUGGESTS LLC, its agents, officers, employees, and successors, and all other persons and entities in active concert or participation with them, are permanently enjoined from:

1. committing mail fraud, as defined by 18 U.S.C. § 1341;
2. committing wire fraud, as defined by 18 U.S.C. § 1343; and

² ECF Nos. 8–10.

³ ECF No. 30.

⁴ ECF No. 36.

3. using or causing others to use interstate telephone calls, mail or private interstate carrier, or electronic communications, including wire, radio, television and internet publication to sell or distribute any product that represents, directly or indirectly, expressly or impliedly that it is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of any disease, including, without limitation, products that are intended for use in the diagnosis, cure, mitigation, treatment or prevention of COVID-19.

III. ADVERTISING

MY DOCTOR SUGGESTS LLC, its agents, officers, employees, and successors, and all other persons and entities in active concert or participation with them, will remove any product listings, promotional materials, websites, social media pages and other media for any MY DOCTOR SUGGESTS LLC products, which represent, directly or indirectly, expressly or impliedly that MY DOCTOR SUGGESTS LLC products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of any disease, including, without limitation, products that are intended for use in the diagnosis, cure, mitigation, treatment or prevention of COVID-19 including, without limitation, on the MY DOCTOR SUGGESTS LLC's own website (MyDoctorSuggestsStore.com), as well as third parties including but not limited to, Amazon, Shopify, Rachel Feldman, Answers For the Family and the associated YouTube channel, the Earth is Waking Up and the associated YouTube Channel, and all other promotions identified in the Government's Complaint and initial briefing.

MY DOCTOR SUGGESTS LLC, its agents, officers, employees, and successors, and all other persons and entities in active concert or participation with them, will also remove any product listings, promotional materials, websites, social media pages and other media for any MY DOCTOR SUGGESTS LLC products, which represent, directly or indirectly, expressly or

impliedly that GORDON PEDERSEN is a qualified medical professional associated with MY DOCTOR SUGGESTS LLC products, including, without limitation, on the MY DOCTOR SUGGESTS LLC's own website (MyDoctorSuggestsStore.com), as well as third parties including but not limited, Amazon, Shopify, Rachel Feldman, Answers For the Family and the associated YouTube channel, the Earth is Waking Up and the associated YouTube Channel, and all other promotions identified in the Government's Complaint and initial briefing.

The removal of the above-described advertising must be done before MY DOCTOR SUGGESTS LLC resumes the sale, shipment, manufacture, or distribution of silver products. If MY DOCTOR SUGGESTS LLC is unable to remove any advertising content controlled by a third-party, for any reason, before resuming the sale shipment, manufacture or distribution of silver products, MY DOCTOR SUGGESTS LLC will send the Government a detailed report, describing: (1) any and all non-complaint advertising content that MY DOCTOR SUGGESTS LLC is aware of; (2) the reason that the content is outside of MY DOCTOR SUGGESTS LLC's control, including confirmation that the third party controlling the content is not acting in concert with MY DOCTOR SUGGESTS LLC, and is not part of the MY DOCTOR SUGGESTS LLC "Ambassador Program;" and (3) the diligent efforts made by MY DOCTOR SUGGESTS LLC to attempt to remove the non-complaint advertising.

For two years after the entry of this Order, MY DOCTOR SUGGESTS LLC will amend its future advertising to display a clear and conspicuous statement explicitly disavowing any claim to provide protection from, or treatment for, COVID-19, as follows:

MY DOCTOR SUGGESTS LLC does not believe that our silver products can prevent or treat COVID-19, and MY DOCTOR SUGGESTS silver products should not be used to diagnose, treat, cure or prevent any disease, including COVID-19.

IV. REFUNDS AND NOTICES TO ELIGIBLE VICTIMS

A. Within 30 days after entry of this Order, MY DOCTOR SUGGESTS LLC, its successors and assigns, shall create and maintain an escrow account (“Purchaser Account”) for the sole purpose of providing refunds to any person or entity who purchased MY DOCTOR SUGGESTS LLC silver products, including but not limited to its “Silver Solution,” “Silver Gel,” “Silver Soap,” and “all Natural Silver Lozenge” products, from January 30, 2020, to April 28, 2020 (“Purchasers”). Purchasers shall include, but are not limited to, individuals already identified in MY DOCTOR SUGGESTS LLC’s Accounting.⁵ Within 14 days of the entry of this Order, MY DOCTOR SUGGESTS, LLC will fund the Purchaser Account with \$16,000.00. Further, MY DOCTOR SUGGESTS, LLC will also make periodic payments into the Purchaser Account to ensure that the balance never drops below \$5,000.00.

B. Within 30 business days of the entry of this order, MY DOCTOR SUGGESTS LLC will offer a refund to all Purchasers. In offering these refunds, MY DOCTOR SUGGESTS LLC agrees to:

1. Provide all Purchasers a notice (“MDS Notice”), provided as EXHIBIT A, indicating their right to receive a refund pursuant to the terms outlined in the notice. MY DOCTOR SUGGESTS LLC will provide refunds to those who are entitled to and request such within 60 days from the date Purchasers make their refund request.
2. MY DOCTOR SUGGESTS LLC must send the MDS Notice to all Purchasers through e-mail and postal mail. The MDS Notice must clearly indicate

⁵ ECF Nos. 28, 29.

“Potential Refund – Your My Doctor Suggests Product” on the e-mail subject line and on the postal envelope.

3. Provide automatic refunds to Purchasers who ordered, but have not received, MY DOCTOR SUGGESTS LLC silver products.

C. MY DOCTOR SUGGESTS LLC shall, within 30 days after entry of this Order, provide the United States with a sworn certification to the United States indicating that MY DOCTOR SUGGESTS LLC made reasonable efforts to deliver the MDS Notice to Purchasers. Moreover, if MY DOCTOR SUGGESTS LLC is unable to deliver the MDS Notice to any Purchaser, that sworn certification will describe the efforts made to deliver the MDS Notice, and explain why the efforts were unsuccessful with respect to that Purchaser.

D. MY DOCTOR SUGGESTS LLC shall, within 60 days after entry of this Order, provide the United States with an update to the certification described in Section C that identifies each Purchaser contacted and the outcome of the refund offer. For each Purchaser, the report shall include:

1. Whether they requested a refund;
2. The date the refund was issued, if applicable;
3. The Purchaser’s order number associated with the refund;
4. The amount refunded to the Purchaser; and
5. The reason a refund could not be provided.

E. Upon completion of all conditions described in Section IV, any funds in the Purchaser Account that have not been claimed by Purchasers shall revert back to MY DOCTOR SUGGESTS LLC.

V. COMPLIANCE MONITORING

A. 90 days after entry of this Order, MY DOCTOR SUGGESTS LLC must submit a plan to the United States that indicates how it intends to remain in compliance with federal law (“Compliance Plan”). As part of the Compliance Plan, MY DOCTOR SUGGESTS LLC will:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the United States may use to communicate with Defendant;
2. Describe policies and procedures it has designed to prevent, detect, and correct violations of the Food, Drug, and Cosmetic Act, 21 U.S.C. § 301; and to ensure that the company and its representatives do not make false or fraudulent representations in the promotion and sale of MY DOCTOR SUGGESTS LLC’s products, or otherwise violate the Mail Fraud statute, 18 U.S.C. § 1341; or the Wire Fraud statute, 18 U.S.C. § 1343;
3. Verify that all the advertising content identified in Section III, *supra*, has been removed and remains inaccessible to consumers on the internet; and
4. Designate a Chief Compliance Officer responsible for overseeing the administration and implementation of the Compliance Program and updating the Compliance Plan as needed.

B. For two years after the entry of this Order, once every six months from the date of this Consent Order, the Chief Compliance Officer must create a report that describes:

1. Any changes made to the Compliance Plan and the reason for these changes;
2. Whether and how MY DOCTOR SUGGESTS LLC is in compliance with each Section of the Consent Order; and

3. Whether the Compliance Plan has been effective in identifying and preventing the violations described in Section V.A.2.

MY DOCTOR SUGGESTS LLC shall produce these reports, which must be signed under penalty of perjury by the Chief Compliance Officer, to the United States within ten (10) days of their completion, for a period of two (2) years after the entry of this Order.

C. For one year after entry of this Order, MY DOCTOR SUGGESTS LLC must provide written notification to the United States of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against MY DOCTOR SUGGESTS LLC within 14 days of its filing.

VI. UNITED STATES' RIGHT TO REOPEN

The United States' agreement to, and the Court's approval of, this Consent Order, including but not limited to Purchaser refunds, is expressly premised upon the truthfulness, accuracy, and completeness of the MY DOCTOR SUGGESTS LLC's representations concerning its ability to pay all consumer refunds and any applicable criminal and civil penalty, all of which the United States relied upon in negotiating and agreeing to the terms of this Consent Order. If, upon motion by the United States, the Court finds that the MY DOCTOR SUGGESTS LLC statements failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission, this case may be reopened for purposes of assessing such an additional civil penalty or restitution.

VII. COOPERATION IN FURTHER INVESTIGATIONS

For a period ending five years after the date of the entry of the Consent Order, MY DOCTOR SUGGESTS LLC shall cooperate fully and truthfully with the United States in any civil, criminal, and/or administrative investigations that involve the MY DOCTOR SUGGESTS

LLC's current and former officers, directors, managers, and employees. Upon reasonable notice, MY DOCTOR SUGGESTS LLC shall encourage and not impair the cooperation of its directors, officers, and employees, and shall not impair the cooperation of former directors, officers, and employees, for interviews and testimony, consistent with the rights and privileges of such individuals.

VIII. SCOPE OF RESOLUTION

The court further orders that:

A. This Consent Order resolves only the United States' civil claims against MY DOCTOR SUGGESTS LLC under the Anti-fraud Injunction Statute, 18 U.S.C. § 1345 in connection with the conduct alleged in the Complaint.

B. The Consent Order only releases the claims in the United States' complaint pursuant to 18 U.S.C. § 1345. It does not release, or in any manner affect, other actual or potential claims. However, the parties note that a separate criminal plea agreement has been reached as part of a global settlement between MY DOCTOR SUGGESTS LLC and the United States.

C. The injunctive provisions of this Consent Order are intended to supplement, and not supersede, due diligence and other legal requirements imposed by state and federal law, including under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.

D. For the purposes of this action, MY DOCTOR SUGGESTS LLC admits the facts necessary to establish jurisdiction. MY DOCTOR SUGGESTS LLC neither admits nor denies any of the remaining allegations in the Complaint, except as specifically stated in this Order.

E. MY DOCTOR SUGGESTS LLC and the United States waive all rights to appeal or otherwise challenge or contest the validity of this Order.

IX. MODIFICATION OF THE CONSENT ORDER

MY DOCTOR SUGGESTS LLC and/or the United States may petition the Court for modification of the Consent Order.

X. RETENTION OF JURISDICTION AND RESERVATION OF RIGHTS

This court retains exclusive jurisdiction of this matter for purposes of construction, modification, and enforcement of this Consent Order, including to ensure that all purchasers who request or are otherwise entitled to refunds pursuant to the provisions of paragraph IV of this Order are made whole. The United States reserves the right to pursue any and all claims against MY DOCTOR SUGGESTS LLC, its principals, managers, and successors, as it deems necessary to secure full satisfaction of MY DOCTOR SUGGEST LLC's obligations under this Order.

Signed June 26, 2020.

BY THE COURT



David Barlow
United States District Judge